



445 Broad Hollow Road
Suite 420
Melville, New York 11747
P: 631.390.0010
F: 631.393.5497

www.bgslaw-ny.com

SHAUN MALONE
SENIOR ASSOCIATE

SMALONE@BGSLAW-NY.COM
EXT. 110
ADMITTED IN NY

March 16, 2020

Via ECF

Magistrate Judge Roanne L. Mann
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Roberta Ludwig v. Marianne Tasker
Docket No.: 2:19-CV-03870 (RRM) (RLM)
BG&S File No.: HO180-3020

Dear Judge Mann:

This action is a premises liability case in which the plaintiff, Roberta Ludwig, alleges to have fallen and been injured as a result of an alleged defective condition existing upon real property owned by the defendant, Marianne Tasker. Our law firm represents the defendant homeowners. We submit this letter motion in support of the defendants' request, with the consent of plaintiff's counsel, for an extension of the case deadlines. The Defendants' also request leave to file a motion for a default judgment against the third-party defendant, William Ludwig.

Your Honor entered a Case Management Order on September 26, 2019. *See ECF Docket # 10*. The initial deadline for the parties to complete fact discovery was March 26, 2020. However, you extended all case deadlines by four weeks by an Order entered on January 16, 2020. *See ECF Docket # 15*. Thus, the fact discovery deadline is currently April 23, 2020. The reason for that extension was that plaintiff filed an amended complaint and the defendants filed a third-party complaint against plaintiff's husband, the lessee of the subject property.

I have attempted to schedule the plaintiff's deposition as well as an examination by a physician of our choosing, to serve as our expert witness in the case. Knowing that the plaintiff resides in Florida, I attempted to schedule these events by contacting plaintiff's counsel, Howard Balsam, to offer to allow his client to provide dates on which she can be in New York. Counsel's response has been, essentially, that due to the Coronavirus outbreak he does not know when the plaintiff will be able to travel to New York for her deposition and an IME (which obviously should be scheduled for consecutive days, for plaintiff's convenience).

Page 2 - March 16, 2020

In the interests of our clients ensuring that discovery will be completed within the case schedule, the parties respectfully request that the court issue an order extending the discovery schedule in the event that plaintiff is unable to travel to New York during the next month or so. We note that some lead time is required to schedule a deposition and to schedule a physician to perform a physical examination.

The defendants also request leave to file a motion for a default judgment against the third-party defendant, William Ludwig. Mr. Ludwig was served with the third-party complaint on January 24, 2020. *See* Declaration of Service, **Docket Entry # 22**. Service was made via plaintiff's counsel, Howard Balsam, who acknowledged in writing to this office that Mr. Ludwig had authorized him to accept service on Mr. Ludwig's behalf (although counsel advised that his acceptance of service of the pleading did not mean that he would necessarily be able to represent Mr. Ludwig in the case). I have inquired of counselor Balsam regarding Mr. Ludwig's intention of answering the third-party complaint, to which I was advised that counsel does not have that information because he does not represent Mr. Ludwig.

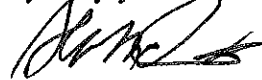
In light of these circumstances, we apparently have no choice but to move for a default judgment against the third-party defendant, William Ludwig, in order to protect our clients' interests. The judgment would be for contribution and indemnity as to any damages awarded to the plaintiff against our clients, the defendants.

On a final status note, the plaintiff's amended complaint adding David Tasker as a defendant was timely answered by our office on behalf of both defendants.

For the foregoing reasons, defendants, Marianne Tasker and David Tasker, respectfully request that the Court grant their motion to compel discovery (or extend the fact discovery deadline) and grant the defendants leave to file a motion for a default judgment against the third-party defendant, William Ludwig. I would welcome a telephone conference with Your Honor to discuss these issues, if you are inclined to schedule one.

We appreciate Your Honor's time and attention in considering these requests.

Very truly yours,



Shaun M. Malone